

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

E.A. SWEEN COMPANY, INC.,

Plaintiff,

v.

**DELI EXPRESS OF TENAFLY,
LLC.**

Defendant.

Civ. No. 2:13-6337 (KM) (MCA)

ORDER & JUDGMENT

KEVIN MCNULTY, U.S.D.J.:

THIS MATTER having been opened to the Court by Plaintiff, E.A. Sween Company, Inc. ("E.A. Sween"), on a Motion for Default Judgment (Docket No. 11) against Defendant Deli Express of Tenaflly, LLC, pursuant to Fed. R. Civ. P. 55(b)(2); and the motion being unopposed; and; and the Court having considered the moving papers and the entire case file; and

IT APPEARING that Defendant was served with the Complaint on October 28, 2013 (Docket No. 9), but did not respond; that the Clerk entered default on December 5, 2013; and for good cause shown

IT IS this 13th day of May 2014,

ORDERED and **ADJUDGED** that Plaintiff's Motion for Default Judgment is **GRANTED**; and it is further

ORDERED and **ADJUDGED** that Plaintiff is awarded reasonable attorneys' fees and costs of an amount to be determined upon application and accompanying affidavit of counsel pursuant to Local Rule 54.1, Fed. R. Civ. P. 55; and it is further

ORDERED that Plaintiff shall submit to this Court within twenty-one days of this Order an editable form of final judgment with its application for attorneys' fees and costs (to be emailed to njdnef_McNulty@njd.uscourts.gov); and it is finally

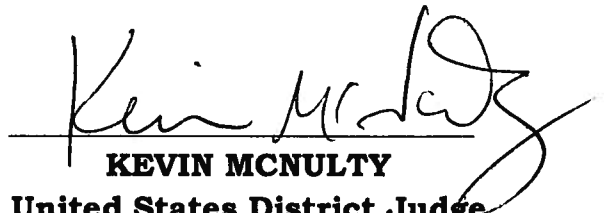
ORDERED and **ADJUDGED** that Plaintiff is **GRANTED** the following injunctive relief:

Defendant, its partners, officers, agents, servants, representatives, employees, shareholders, successors, and all other persons in active concert or participation with Defendant, are hereby permanently enjoined and restrained from the following:

- a. Doing business under the name "DELI EXPRESS;"
- b. Filing for any future corporate names that include the phrase "Deli Express" or confusingly similar variations thereof. Within thirty (30) days of the date of the order of the Court, the Defendant must take any and all actions necessary to cancel the registration or amend and remove the phrase "Deli Express" from its current registration for the name Deli Express of Tenaflly, LLC, (Entity Number 0600309419);
- c. Using, in any manner, the term "DELI EXPRESS" and/or any confusingly similar designation alone or in combination with other words or designs as a trademark, trade name component, or otherwise, to market, advertise, or identify any product and/or service not produced, offered, or authorized by E.A. Sween Company;
- d. Using, in any manner, the "DELI EXPRESS" trademarks or any mark confusingly similar to the DELI EXPRESS® Marks in connection with Deli Express of Tenaflly, LLC's goods or services in such a manner that is likely to create the erroneous belief that the goods or services are authorized by, sponsored by, licensed by, or are in any manner associated with E.A. Sween Company;
- e. Otherwise infringing upon the DELI EXPRESS® Marks;
- f. Unfairly competing with E.A. Sween Company in any manner whatsoever;
- g. Causing likelihood of confusion, injury to business reputation, or dilution of the distinctiveness of the DELI EXPRESS® Marks;
- h. Committing any other act or making any other statement that infringes E.A. Sween Company's trademarks and service marks, or constitutes an active trademark or service mark infringement, trademark dilution, unfair competition under federal common law or the common law of the State of New Jersey; and

i. Conducting business with, including, but not limited to, selling any sandwiches or other food products to any person, firm, or entity that Deli Express of Tenaflly, LLC knows or has reason to believe is engaged in any of the following:

- (1) Doing business under the name "DELI EXPRESS";
- (2) Using, in any manner, the term "DELI EXPRESS" and/or any confusingly similar designation alone or in combination with other words or designs as a trademark, trade name component, or otherwise, market, advertise, or identify any product and/or service not produced, offered or authorized by E.A. Sween Company; and
- (3) Using, in any manner, the DELI EXPRESS® Marks in connection with any such person's, firm's, or entities' goods or services in such a manner that is likely to create the erroneous belief that the goods or services are authorized by, sponsored by, licensed by, or are in any manner associated with E.A. Sween Company.


KEVIN MCNULTY
United States District Judge